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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,907	07/11/2001	Veronique Guillou	210231US0	7859

22850            7590            12/19/2001

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[REDACTED] EXAMINER

YU, GINA C

ART UNIT	PAPER NUMBER
1619	

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	<b>Applicati n N .</b>	<b>Applicant(s)</b>
	09/901,907 Examiner Gina C. Yu	GUILLOU ET AL. Art Unit 1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Peri d f r R plly

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disp sition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Pri rity under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                     |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is vague and indefinite as examiner views that one of ordinary skill in the art would have not readily apprehend that "sugars" are used as a solvent.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1- 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lukenbach (US 6090773) ("Lukenbach") in view of Dereian et al. (US6262130 B1) ("Derian").

Lukenbach et al. teaches a conditioning shampoo or body cleanser composition comprising cationic polymers, an amphoteric surfactant, anionic surfactant, and a nonionic surfactant. See col. 1, line 34 – col. 2, line 59. Amphoteric and anionic phosphate surfactants are disclosed in col. 6, line 56 – col. 10, line 46. Nonionic surfactants such as alkylpolyglucosides are mentioned. See col. 4, lines 52 – 63. The cationic polymers suitable for the invention include polyquaternium-7, meeting instant claims 12, 13, and 16. See col. 10, line 57 – col. 12, line 37. The reference lacks the teaching of the specific phosphate surfactants of the instant claims 4 and 16.

Derian teaches aqueous surfactants comprising alkyl phosphate ester salts useful in formulating flowable or pumpable transparent gels. See abstract; col. 1, line 19 – col. 2, line 55. Potassium salt of dodecyl phosphate is disclosed. The reference teaches that the alkyl phosphate ester salts are useful in cosmetic and personal care products because of their foaming properties, detergency, non-irritating properties, form density, stability and skin feel. The invention, which is pumpable and transparent, is also said to allow minimize the amount of co-solvents or other surfactants. See col. 3, line 10 – col. 4, line 44. Although both references are silent as to the measurement of the actual foam height of the inventions, examiner takes the position that, in view of the fact that prior art which meet the limitations of the instant claims, the claimed properties of the instant inventions may be due to the limitations not disclosed in the instant claims.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of Lukenbach by substituting the phosphate surfactants with the phosphate surfactants of Derian because of the expectation of successfully producing a transparent cleansing composition with good foaming properties, detergency, non-irritating properties while minimizing the need of other ingredients.

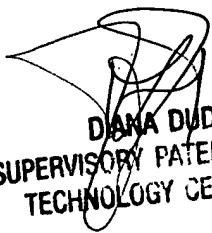
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsu et al. US 6258771 B1 (teaching transparent/translucent liquid detergent comprising polysaccharides); Halloran et al., US 5326438, (teaching method of making clear shampoo products); Imokawa et al. US 4139485 (teaching phosphate anionic surfactants).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-305-3593.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu  
Patent Examiner  
December 15, 2001



DIANA DUDASH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600